A COMMENTARY *on* CANON LAW

Bachofen, Charles Augustine

A COMMENTARY ON THE NEW CODE OF CANON LAW

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VOLUME VIII

BOOK V

Penal Code (Can. 2195-2414)
with complete index

THIRD EDITION

B. HERDER BOOK CO.
17 SOUTH BROADWAY, ST. LOUIS, MO.
AND
68 GREAT RUSSELL ST., LONDON, W. C.
1931

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Printed in U. S. A.

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Sti. Ludovici, die 4. Maii, 1931,

F. J. Holweck,

Censor Librorum

IMPRIMATUR

Sti. Ludovici, die 5. Maii, 1931,

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Vail-Ballou Press, Inc., Binghamton and New York

KBG .B3346 v.8

Can. 2318

§ 1. In excommunicationem Sedi Apostolicae speciali modo reservatam ipso facto incurrunt, opere publici iuris facto, editores librorum apostatarum, haereticorum et schismaticorum, qui apostasiam, haeresim, schisma propugnant, itemque eosdem libros aliosve per apostolicas litteras nominatim prohibitos defendentes aut scienter sine debita licentia legentes vel retinentes.

§ 2. Auctores et editores qui sine debita licentia sacrarum Scripturarum libros vel earum adnotationes aut commentarios imprimi curant, incidunt ipso facto in excommunicationem nemini reservatam.

§ 1. Those who *publish books written by apostates, heretics, or schismatics, incur the excommunication reserved speciali modo to the Holy See, after the book has been effectively published. The same penalty is incurred by those who defend such books or others nominally forbidden by Apostolic letter, or who knowingly read or retain them without due permission.*

§ 2. *Authors and publishers who print books of Sacred Scripture, or annotations and commentaries thereon, without due permission, incur the excommunication reserved to no one.* After what was said elsewhere[1] a few remarks may suffice.

1. The *persons* who incur this penalty are:

a) The *editores* of the books named, by which term are to be understood the author himself as well as the publisher, but not the printers and their co-workers. The editors, whether they undertake the publication in their own name, or under an assumed name, or anonymously, incur the penalty only after the edition is complete and for sale, *opere publici iuris facto.*

b) Those who *defend*[2] books forbidden under this canon or *read or retain* them *without the necessary permission and knowingly, i. e.,* being aware that they are forbidden.

2. The *books* forbidden here under the penalty stated in §1, are those of *apostates, heretics,* and *schismatics,* which not merely propose, but defend apostasy, heresy, or schism. The defence may concern only one heretical doctrine. The term *"book"* must here be strictly interpreted and hence can. 1384, § 2 cannot be applied.

1 See Vol. VI of this Commentary, p. 428 ff.

2 By defending the contents, or protecting the book from being destroyed or given up; Eichmann, *l. c.,* p. 132.

Consequently pamphlets, magazines, leaflets, papers, etc., are not comprised under this penal sanction. Besides, the "books" must be forbidden by *Apostolic letter,* wherefore decrees of the Holy Office or any other S. Congregation forbidding certain books do not fall under this heading, even though the decree may have been issued *"facto verbo cum SSmo."* On the other hand it does not matter whether these Apostolic letters are issued in the form of a brief, or bull or encyclical letter, or any other.

3. The *penalty* is excommunication reserved *speciali modo* to the Apostolic See; it is incurred *ipso facto, i. e.,* by the fact of having published such a forbidden book, or defended, read, or retained it, according to the explanation given in Title XXIII, Book III.

Here it may be added that the Ordinary may, in virtue of can. 1402, grant permission to read and retain books forbidden by common law (can. 1399) or by a decree of the Apostolic See (Holy Office), but he cannot grant permission to read and retain books forbidden by Apostolic letter.

§ 2. Another category of books is mentioned in § 2 of can. 2318: the *authors* and *publishers* of books of *Sacred Scripture* or of annotations and commentaries thereon,[3] if printed without due permission.[4] All these incur *excommunication* reserved to no one, from which any confessor may absolve, according to can. 2253, 1°.